

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERARDO HERNANDEZ,

Plaintiff,

v.

KN PETROLEUM, LLC, et al.,

Defendants.

Case No. [4:24-cv-03653-KAW](#)

SECOND ORDER TO SHOW CAUSE

Re: Dkt. Nos. 24, 27

On December 9, 2024, Plaintiff filed a motion for sanctions, which included a request for terminating sanctions under Federal Rule of Civil Procedure 37. Pursuant to Civil Local Rule 7-3(a), Defendants’ opposition was due 14 days after the motion was filed, which was December 23, 2024. Defendants did not timely file an opposition or statement of non-opposition. Pursuant to the undersigned’s standing order, “[t]he failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute consent to the granting of the motion.” (Judge Westmore’s General Standing Order ¶ 23.)

On January 6, 2025, the Court issued an order to show cause to Defendants requiring that, on or before January 13, 2025, they “1) file an opposition or statement of non-opposition to the pending motion, and 2) file a response to this order to show cause explaining why the opposition was not timely filed.” (Dkt. No. 27 at 1.)

On January 13, 2025, instead of formally requesting an extension of the deadline to respond to the order to show cause and file the opposition, defense counsel emailed the Court seeking an extension of time, which included arguments pertaining to the merits of this case.¹

¹ Plaintiff’s counsel, Tanya Moore, was copied on this email.

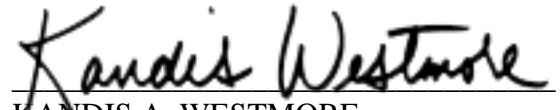
1 Such relief cannot be obtained via email or telephone. Rather, a party must file a formal, written
2 request for an extension of time on the public docket. Defendants did not file a formal request
3 despite being informed by the courtroom deputy of the requirement to do so. Moreover, to date,
4 Defendants have not responded to the order to show cause or filed an opposition to the pending
5 motion.

6 Accordingly, the Court issues a SECOND ORDER TO SHOW CAUSE why the motion
7 for sanctions should not be granted as unopposed for failure to file an opposition. Therein,
8 Defendants must explain why they did not file a formal request for an extension of the January 13,
9 2025 deadline. The response to this order to show cause and an opposition to the pending motion
10 for sanctions are due by **January 24, 2025**. The failure to timely file both documents will result
11 in Plaintiff's motion for sanctions being granted, including all relief sought therein, without oral
12 argument pursuant to Civil Local Rule 7-1(b).

13 Should an opposition be timely filed, Plaintiff may file a reply on or before January 31,
14 2025. The February 20, 2025 hearing on the motion for sanctions remains on calendar.

15 IT IS SO ORDERED.

16 Dated: January 16, 2025

17 
18 KANDIS A. WESTMORE
United States Magistrate Judge